IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

Friday, the First day of October, two thousand and four

Present:

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NOS. 1658, 1659, 1660,1661, 1662, 1663 AND 1664 OF 2004

WRIT PETITION No.1658 OF 2004

Between:

1. The Worldwide Diamond Manufacturers Pvt. Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam, rep.by its Assistant General Manager, S.V.R.Prasad S/o late S.Venkatesharlu, aged abourt 40 years, R/o Visakhapatnam.

2. The Personal Manager, M/s. Worldwide Diamond Manufacturers Pvt.Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam.

...Petitioners

And

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. P.Venkata Kishore Reddy S/o P.Ramachander Rao, R/o D.No.38-2-46, 104 Area Old P.S.Maripalem, Visakhapatnam

(ID.No.219 of 2002).

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records, quash the orders in I.A.No.262 of 2003 in I.D.No.219 of 2002, dated 19-1-2004 and consequently direct the respondent Industrial Tribunal to follow Rule 12(6) or 12(A)(4) of the A.P.Industrial Disputes Rules 1958 for recording of evidence.

For the Petitioner: Mr.G.Vidyasagar, Advocate.

For the Respondent No.1: G.P., for Labour.

For the Respondent No.2: None appeared.

WRIT PETITION No.1659 OF 2004

Between:

The Worldwide Diamond Manufacturers Pvt. Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam, rep.by its Assistant General Manager, S.V.R.Prasad S/o late S.Venkatesharlu, aged about 40 years, R/o Visakhapatnam.

…Petitioner

And

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Poramanchi Appalanaidu S/o Satyam, aged about 26 years, R/o D.no.18-16/2. Gajuwaka, Viasakhapatnam (ID.No.108/2003).

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records, quash the orders in I.A.No.265 of 2003 in I.D.No.108 of 2003, dated 19-1-2004 and consequently direct the respondent Industrial Tribunal to follow Rule 12(6) or 12(A)(4) of the A.P.Industrial Disputes Rules 1958 for recording of evidence.

For the Petitioner: Mr.G.Vidyasagar, Advocate.

For the Respondent No.1: G.P., for Labour.

For respondent No.2 : Notice sent returned unserved.

WRIT PETITION No.1660 OF 2004

Between:

1. The Worldwide Diamond Manufacturers Pvt. Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam, rep.by its Assistant General Manager, S.V.R.Prasad S/o late S.Venkatesharlu, aged abourt 40 years, R/o Visakhapatnam.

2. The Personal Manager, The Worldwide Diamond Manufacturers Pvt.Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam.

…Petitioners

And

1 . The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Teketi Gurumurthy S/o T.Mallesu, aged about 23 years, R/o D.No.14-259, Laxminagar, Gopalpatnam, Visakhapatnam.

(ID.No.221 of 2002)

…Respondents

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records, quash the orders in I.A.No.239 of 2003 in I.D.No.221 of 2002, dated 19-1-2004 and consequently direct the respondent Industrial Tribunal to follow Rule 12(6) or 12(A)(4) of the A.P.Industrial Disputes Rules 1958 for recording of evidence.

For the Petitioner: Mr.G.Vidyasagar, Advocate.

For the Respondent No.1: G.P., for Labour.

For the Respondent No.2: None appeared.

WRIT PETITION No.1661 OF 2004

Between:

1. The Worldwide Diamond Manufacturers Pvt. Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam, rep.by its Assistant General Manager, S.V.R.Prasad S/o late S.Venkatesharlu, aged abourt 40 years, R/o Visakhapatnam.

2. The Assistant General Manager (P&A), The Worldwide Diamond Manufacturers Pvt.Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam.

...Petitioners

And

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Rudraraju Eswara Venkata Satya Rajakumar, aged about 28 years, R/o D.No.11-101, Laxmipuram, Vadlapudi, Visakhapatnam (I.D.No.224 of 2002).

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records, quash the orders in I.A.No.237 of 2003 in I.D.No.224 of 2002, dated 19-1-2004 and consequently direct the respondent Industrial Tribunal to follow Rule 12(6) or 12(A)(4) of the A.P.Industrial Disputes Rules 1958 for recording of evidence.

For the Petitioner: Mr.G.Vidyasagar, Advocate.

For the Respondent No.1: G.P., for Labour.

For the Respondent No.2: None appeared.

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WRIT PETITION No.1662 OF 2004

Between:

1. The Worldwide Diamond Manufacturers Pvt. Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam, rep.by its Assistant General Manager, S.V.R.Prasad S/o late S.Venkatesharlu, aged abourt 40 years, R/o Visakhapatnam.

2. The Personal Manager, The Worldwide Diamond Manufacturers Pvt.Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam.

…Petitioners

And

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Kandru Sudhakar Rao S/o late Krishna Murthy, aged about 29 years, R/o D.No.2-14, Srinagar, Gajuwaka, Visakhapatnam

(ID.No.220 of 2002).

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records, quash the orders in I.A.No.263 of 2003 in I.D.No.220 of 2002, dated 19-1-2004 and consequently direct the respondent Industrial Tribunal to follow Rule 12(6) or 12(A)(4) of the A.P.Industrial Disputes Rules 1958 for recording of evidence.

For the Petitioner: Mr.G.Vidyasagar, Advocate.

For the Respondent No.1: G.P., for Labour.

For the Respondent No.2: Notice sent returned unserved.

WRIT PETITION No.1663 OF 2004

Between:

1. The Managing Director, Worldwide Diamond Manufacturers Pvt. Ltd.,, Visakhapatnam.

2. The Worldwide Diamond Manufacturers Pvt. Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam, rep.by its Assistant General Manager, S.V.R.Prasad S/o late S.Venkatesharlu, aged abourt 40 years, R/o Visakhapatnam.

…Petitioners

And

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Sagi Narayana Raju S/o Sagi Rama Raju, aged about 23 years, R/o D.No.30-27-3, R.H.Colony, Vadlapudi, Laxmipuram Colony, Visakhapatnam (I.D.No.223 of 2002)

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records, quash the orders in I.A.No.238 of 2003 in I.D.No.223 of 2002, dated 19-1-2004 and consequently direct the respondent Industrial Tribunal to follow Rule 12(6) or 12(A)(4) of the A.P.Industrial Disputes Rules 1958 for recording of evidence.

For the Petitioner: Mr.G.Vidyasagar, Advocate.

For the Respondent No.1: G.P., for Labour.

For the Respondent No.2: None appeared.

WRIT PETITION No.1664 OF 2004

Between:

1. The Managing Director, Worldwide Diamond Manufacturers Pvt.Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam.

3. The Worldwide Diamond Manufacturers Pvt. Ltd., Unit No.7 and SDF, VSE2, Duvvada, Visakhapatnam, rep.by its Assistant General Manager, S.V.R.Prasad S/o late S.Venkatesharlu, aged abourt 40 years, R/o Visakhapatnam.

…Petitioners

And

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Thota Kishore Kumar S/o late Sivaramakrishna, aged 27 years, R/o D.No.50-11-33, Seethammadhara, Visakhapatnam

(I.D.no.222 of 2002).

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records, quash the orders in I.A.No.264 of 2003 in I.D.No.222 of 2002, dated 19-1-2004 and consequently direct the respondent Industrial Tribunal to follow Rule 12(6) or 12(A)(4) of the A.P.Industrial Disputes Rules 1958 for recording of evidence.

For the Petitioner: Mr.G.Vidyasagar, Advocate.

For the Respondent No.1: G.P., for Labour.

For the Respondent No.2: None appeared.

The Court made the following :

COMMON ORDER:

Heard the learned counsel appearing for the petitioners as well as the respondents.

The petitioners in all these writ petitions are one and the same and the second respondent is a different workman in all the writ petitions. The petitioners filed these Writ Petitions to issue a writ of certiorari, calling for the records relating to individual Interlocutory Applications filed in different Industrial Disputes filed by the concerned second respondent in each of the industrial dispute and to quash the order dated 19-01-2004 made in the Interlocutory Applications.

The petitioners' company is the Private Limited Company, engaged in the business of polishing rough diamonds of its clients and exporting the same. The concerned second respondent in each of the writ petitions were appointed as trainees. It is stated that the said workmen were disengaged. Aggrieved by the same, the workmen raised conciliation proceedings and thereafter filed an application under Section 2-A(ii) of the Industrial Disputes Act (in short Act), challenging their termination, before the Industrial Tribunal-cum-Labour Court, Visakhapatnam.

It is the case of the workmen that they were appointed in January, 2000 and worked continuously till they were discharged in March, 2002 and were drawing an amount of Rs.1,500/- per month. It is their case that without paying any compensation and without giving any prior notice, their services were discharged unceremoniously. They have filed appointment letters as well as the discharge orders before the Industrial Tribunal. It is stated that the decision of the management in discharging them on the ground that their work is not satisfactory, amounts to casting a stigma on the conduct of the workmen and therefore, they raised a dispute. As the conciliation

proceedings have been failed, industrial disputes were filed under Section 2-A(ii) of the Act for adjudication of the dispute holding that the discharge order made by the petitioners is arbitrary, unlawful, vindictive and unfair labour practice and to direct the management to reinstate them with all consequential benefits. The workmen filed the sworn affidavits as evidence on record before the Labour Court, Visakhapatnam and submitted themselves for cross-examination by the management.

The management filed different Interlocutory Applications in the respective Industrial Disputes under Section 11 of the Act, praying the Labour Court not to accept the affidavits as evidence on record by the Labour Court and to record the evidence in the open Court itself. It is stated that the Industrial Disputes Act is a self-contained Act and the provisions of the Civil Procedure Code are not applicable to the Industrial Disputes except to the limited extent as enumerated under Section 11(3) of the Act and Rule 26 of the Andhra Pradesh Industrial Disputes Rules. It is stated that the Full Bench of this Court in the case of **Nalgonda Co-operative Marketing Society Limited Vs., the Labour Court, Hyderabad and others** held that the provisions of the Civil Procedure Code will not apply to the Tribunals and the Industrial Tribunal-cum-Labour Court is not a Civil Court and therefore, the provisions of the Civil Procedure Code, as amended from time to time, cannot be made applicable to the Industrial Tribunals. The Labour Court constituted under Section 7 of the Act is not a Civil Court and under Section 11 of the Act, only limited provisions of Civil Procedure Code are made applicable to the Labour Court and all the provisions of the Civil Procedure Code, except those mentioned under Section 11 of the Act are not applicable to the Labour Court. It is further stated that the Division Bench of this Court in the case of **Hindustran Machine Tools Ltd., Hyderabad Vs. T.Bal Reddy and another** also taken the same view. It is further stated that the amended provisions of Order 18 Rule 4 of the Civil Procedure Code are not made applicable to the Industrial Tribunals under Section 11 of the Act and therefore, the

Industrial Tribunal-cum-Labour Court cannot take evidence based on the affidavits furnished to the Court. It is further stated that there is a specific procedure laid down under Rules 12, 12(6) and 12-A(4) of Andhra Pradesh Industrial Disputes Rules, 1958 for recording the evidence and therefore, the Industrial Trubunal-cum-Labour Court has to strictly follow the said rules, but not Order 18 Rule 4 of the Civil Procedure Code for the purpose of chief examination of the respective parties, based on the affidavits furnished to the Court. The said preliminary objection raised in the Interlocutory Applications filed by the management was considered by the Industrial Tribunal-cum-Labour Court, Visakhapatnam and dismissed by similar orders dated 19-1-2004, against which, all these writ petitions have been filed by the management.

Chapter-IV of the Industrial Disputes Act, 1947 deals with the procedure, powers and duties of Authorities. The relevant provision, Section 11(3) is extracted below:-

> **"11. Procedure and powers of conciliation officers Boards, Courts and Tribunals:-**
>
> **(3)** Every Board, Court, (Labour Court, Tribunal and National Tribunal) shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters namely:-

a. **enforcing the attendance of any person and examining him on oath;**

b. Compelling the production of documents and material objects;

c. **issuing commissions for the examination of witnesses;**

d. In respect of such other matters as may be prescribed".

The relevant Rules under the Andhra Pradesh Industrial Disputes Rules, 1958 are extracted as follows:-

“12. Proceedings before the Labour Court or Tribunal:-

1. to (5) ……

(6) The Labour Court or Tribunal, as the case may be, may be, shall, as the examination of each witness proceeds, make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the presiding officer:

Provided that the Labour Court or Tribunal, as the case may be, may follow the procedure laid down in Rule 5 of Order XVIII of the First Schedule to the Code of Civil Procedure, 1908, (Central Act 5 of 1908) if it considers necessary so to do, in view of the nature of the particular industrial dispute pending before it”.

Rule 12-A:-

(1) to (3)……..

(4) “The Labour Court shall examine each witness proceeds, make a memorandum of substance of what he deposes and such memorandum shall be written and signed by the Presiding Officer:

Provided that the Labour Court may follow the procedure laid down in Rule 5 of Order XVIII of the First Schedule to the Code of Civil Procedure, if it considers necessary to do so in view of the nature of the particular industrial dispute pending before it”.

Rule 26:- Power of Boards, Courts, Labour Courts and Tribunals:- In addition to the powers conferred by the Act, Boards, Courts, Labour Courts or Tribunals shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908), swhen trying a suit in respect of the following matters namely:-

a. discovery and inspection;

b. granting adjournment;

c. reception of evidence taken on affidavit;

and the Board, Court, Labour Court or Tribunal may summon and examine any person whose evidence appears to it to be material and shall be deemed to be a Civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898 (Central Act V of 1898).

The relevant rules under the Industrial Disputes (Central Rules, 1957 are extracted as follows:-

Rule 10-B:-

1. to (5)……..

(6):- Evidence shall be recorded either in Court or an affidavit, but in the case of affidavit, the opposite party shall have the right to cross examine each of the deponents filing the affidavit. As the oral examination of each witness proceeds, the Labour Court, Tribunal or National Tribunal shall make a memorandum of the substance of what is being deposed. While recording the evidence, the Labour Court, Tribunal or National Tribunal shall follow the procedure laid down in Rule 5 of Order XVIII of, First Schedule to the Code of Civil Procedure 1908.

Rule 24: - **Power of Boards, Courts, Labour Courts, Tribunals and National Tribunals:-** In addition to the powers conferred by the Act, Boards, Courts, Labour Courts, Tribunals and National Tribunals shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters namely:-

a. discovery and inspection;

b. granting adjournment;

c. reception of evidence taken on affidavit;

and the Board, Court, Labour Court, Tribunal or National Tribunal may summon and examine any person whose evidence appears to it to be material and shall be deemed to be a Civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898".

Based on the rules 12(6) and 12-A(4) of Andhra Pradesh Industrial Disputes Rules, 1958, the learned counsel appearing for the petitioners management submits that the Labour Court/Industrial Tribunal has no power to receive evidence on affidavit by making applicable Order 18 Rule 4 of Civil Procedure Code for the purpose of taking chief examination based on the affidavits filed by the workmen.

Under Section 11(3) of the Industrial Disputes Act, admittedly, the Labour Court/Industrial Tribunal shall have the same powers as vested in a Civil Court under the Code of Civil Procedure, in respect of the matters (a) enforcing the attendance of any person and examining him on oath, (b) compelling the production of documents and material objects; (c) issuing commissions for the examination of witnesses and (d) in respect of such other matters as may be prescribed. Rule 12-A(4) of A.P., Industrial Disputes Rules, 1958 empowers the Labour Court/Industrial Tribunal to examine each of the witness and make a memorandum of substance of what he deposes and such memorandum shall be written and signed by the Presiding Officer. The proviso deals with appellate powers of the Industrial Tribunals/Labour Courts as Order 18 rule 5 deals with the evidence to be taken in appellable cases. Admittedly, the Labour Courts/Industrial Tribunals are enjoying the appellate powers in respect of certain cases also. Therefore, the proviso to the said rules has no application to the industrial disputes raised before the Labour Courts/Industrial Tribunals for making applicable the provisions of Civil Procedure Code, which is required to be taken by the appellate Court under Order 18 rule 5 of Civil Procedure Code.

Under Section 11(3) of the Industrial Disputes Act, all the

provisions of Code of Civil Procedure applicable to the Civil Courts as regards to enforcement of attendance in person and examining him on oath and issuing commissions for the examination of witnesses are applicable to the Industrial Tribunals/Labour Courts also. Therefore, it cannot be said that Order 18 Rule 4 of the Code of Civil Procedure, which deals with recording of evidence has no application to the Industrial Tribunals/Labour Courts. The workmen filed the sworn affidavits and furnished the same to the Labour Court/Industrial Tribunal, which was taken by the Court either for the purpose of cross examining the witnesses by the Court itself or by the Commissioner appointed by it. The said procedure adopted by the Labour Court/Industrial Tribunal cannot be objected by the management on technical grounds. More so, all the provisions of Civil Procedure Code are applicable with regard to examining the workmen/witnesses under Section 11(3) of the Act, read with Rules 10-B(6) and 24 of Industrial Disputes (Central) Rules 1957 and Rules 26 of Andhra Pradesh Industrial Disputes Rules, 1958.

The purpose of introducing the Industrial Disputes Act itself is to settle the disputes between the workmen and the employees and the said enactment is to ensure social justice both to the employer and employees and advance the progress of the industry by bringing harmony and cordial relations between the parties. It is also well known rule of statutory construction that Tribunals/Labour Courts should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions effectively for the purpose of doing justice between the parties.

The learned Government Pleader submitted that Code of Civil Procedure is applicable to the Industrial Tribunals/Labour Courts for the purpose of receiving evidence by way of affidavits filed by the witnesses under Section 11-B(6) read with Rule 24 of Industrial Disputes Rules 1957 and Rule 26 of Andhra Pradesh Industrial Disputes Rules 1958, and therefore, the management without any

justification whatsoever filed these writ petitions and stalled the proceedings for adjudication at an early date.

The learned counsel for the petitioners relied on the Judgment of the Division Bench of this Court in the case of Hindustan Machine Tools Ltd., Hyderabad Vs. T.Bal Reddy and another (2002 (2) ALD 499, second cited). I have carefully gone through the said Judgment. The question that fell for consideration as to whether the Labour Court has jurisdiction to reopen the matter enabling the parties to adduce further evidence and mark documents etc., once hearing was concluded and the matter was reserved for Judgment. The Division Bench of this Court held that the strict procedure of the Civil Procedure Code cannot be made applicable to the Industrial Tribunals/Labour Courts and the Tribunal has got the power to reopen the matter enabling the parties to adduce further evidence. In fact, the said principle laid down by the Division Bench of this Court goes against the contentions of the management. In para 17 of the said Judgment, the Division Bench held that:

> "The Industrial Disputes Act, 1947 is a welfare legislation enacted protecting the rights of the workmen. Chapter IV of the said Act deals with procedure, powers and duties of authorities. Section 11(1) provides that subject to any rules that may be made for the said purpose, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit. Section 11(3) provides that every Board, Court, Labour Court, Tribunal and National Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) which trying a suit in respect of the matters, namely (a) enforcing the attendance of any person and examining him on oath, (b) compelling the production of documents and material objects, (c) issuing commissions for the examination of witnesses and (d) in respect of such other matters as may be prescribed."

Rules 12 and 12-A of Andhra Pradesh Industrial Disputes Rules, 1958 deals with the procedure before the Labour Court or Tribunal in respect of the industrial disputes referred to it for adjudication. The proviso to Rule 12(6) or Rule 12-A(iv) only deals with the appellate powers of the Industrial Tribunal-cum-Labour Court. Therefore, I am of the opinion that Order 18 rule 4 of Civil Procedure Code is

applicable to the Industrial Tribunal/Labour Courts as the Civil Procedure Code is applicable for the purpose of procedure and powers while adjucating the industrial disputes under Section 11(3) of the Industrial Disputes Act. There is also specific power vested with the Labour Courts/Industrial Tribunals under Rule 10-B(6) read with Rule 24 of Industrial Disputes (Central) Rules, 1957 and Rules 26 of the Andhra Pradesh Industrial Disputes Rules, 1958 to receive the evidence on affidavit.

The Supreme Court in the case of **Shambhu Nath Goyal Vs. Bank of Baroda**, held that:

> "Under Section 11(3) of the Industrial Disputes Act, Labour Court/Tribunal and other authorities therein have same powers as are vested in a civil Court under the Code of Civil Procedure when trying a suit in respect of certain matters which include enforcing the attendance of any person and examining him on oath and compelling the production of documents and material objects. It is consistently held and accepted that strict rules of evidence are not applicable to proceedings before the Labour Court/Tribunal but essentially the rules of natural justice are to be observed in such proceedings. Labour Court/Tribunals have power to call for any evidence at any stage of the proceedings if the facts and circumstances of the case demand the same to meet the ends of justice in a given situation."

The management instead of contesting the matters on merits, raised untenable objection to stall the proceedings without any justification and resorted to question the interlocutory orders made by the Industrial Tribunal/Labour Court by way filing writ petitions. The Apex Court time and again held that it is not desirable to question the interlocutory orders made by the Industrial Tribunal/Labour Courts by way of filing writ petitions. The first respondent has considered all the objections of the petitioners-management and rightly held that the amendment of the Civil Procedure Code as regards to the receiving evidence is applicable to the Labour Courts/Industrial Tribunals. As per Rule 10-B(6) of the Industrial Disputes (Central) Rules, 1957,

evidence shall be recorded either in Court or an affidavit, but in the case of affidavit, the opposite party shall have the right to cross examine each of the deponents filing the affidavit. As per Rule 24(c) of the Industrial Disputes (Central) Rules, 1957, the Board, Court, Labour Court, Tribunal or National Tribunal may summon and examine any person whose evidence appears to it to be material and shall be deemed to be a Civil Court and empowered to receive evidence on affidavit.

Order 18 Rule 4 of amended Civil Procedure Code provides that the examination-in-chief in evidence can be given by way of affidavit and the witness who sworns to the affidavit can be cross-examined by the opposite party.

The Industrial Tribunal-cum-Labour Court considered the issue of receiving evidence of the chief examination by way of affidavit for speedy disposal of the cases and examination-in-chief is received by way of affidavit, the copy of the affidavit which has been served on the other side so as to enable the other side either to cross examine or seek an adjournment for the purpose of cross examination, which procedure will save the time of the Court and the party also will not have any inconvenience. The said procedure will pave the way for the quick disposal of the cases. The impugned orders do not suffer from any infirmity and I do not see any incurable defect to interfere with the said orders passed in the Interlocutory Applications by exercising the certiorari jurisdiction and the writ petitions are devoid of merits and there are liable to be dismissed.

Accordingly, all the writ petitions are dismissed. No order as to costs.

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V.ESWARAIAH, J

Date: 01-10-2004.

Shr.

One fair copy to Hon'ble Sri Justice V.Eswaraiah (for His Lordship's kind perusal).

Copies to:-

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.
2. Eight L.R.Copies.
3. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
4. The Secretary, A.P., Advocates Assocation Library, High Court Buildings, Hyderabad.
5. Two CCs., to the G.P., for Labour, High Court of A.P., High Court Buildings, Hyderabad (OUT).
6. Two C.D. copies.